

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FLORENCE WALLACE, et al.,

Plaintiffs,

v.

ROBERT J. POWELL, et al.,

Defendants.

CIVIL ACTION NO. 3:09-cv-286

(JUDGE CAPUTO)

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WILLIAM CONWAY, et al.,

Plaintiffs,

v.

MICHAEL T. CONAHAN, et al.,

Defendants.

CIVIL ACTION NO. 3:09-cv-0291

(JUDGE CAPUTO)

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

H.T., et al.,

Plaintiffs,

v.

MARK A. CIAVARELLA, JR., et al.,

Defendants.

CIVIL ACTION NO. 3:09-cv-0357

(JUDGE CAPUTO)

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SAMANTHA HUMANIK,

Plaintiff,

v.

MARK A. CIAVARELLA, JR., et al.,

Defendants.

CIVIL ACTION NO. 3:09-cv-0630

(JUDGE CAPUTO)

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

RAUL CLARK, et al.,

Plaintiffs,

v.

MICHAEL T. CONAHAN, et al.,

Defendants.

CIVIL ACTION NO. 3:09-cv-0357

(JUDGE CAPUTO)

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

WAYNE DAWN, et al.,

Plaintiffs,

v.

MARK A. CIAVARELLA, JR., et al.,

Defendants.

CIVIL ACTION NO. 3:09-cv-2535

(JUDGE CAPUTO)

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANGELA RIMMER BELANGER, et al.,

Plaintiffs,

v.

MARK A. CIAVARELLA, et al.,

Defendants.

CIVIL ACTION NO. 3:10-cv-1405

(JUDGE CAPUTO)

MEMORANDUM

Presently before the Court is PA Child Care, LLC, Western PA Child Care, LLC, and Mid-Atlantic Youth Services Corp.'s (collectively "Provider Defendants") Motion to Stay These Proceedings Pending Resolution of a Petition for Writ of Mandamus in the United States Court of Appeals for the Third Circuit at Case 12-4452. (Doc. 1259.) Provider Defendants' request for a stay will be denied.

Background

On October 31, 2012, due to a discovery dispute between Plaintiffs and Provider Defendants, I ordered that "discovery of records related to Juvenile Plaintiffs' criminal adjudications is not permitted," and that "discovery of Juveniles' Histories is not permitted at this time." (Doc. 1222.) Provider Defendants subsequently requested that the October 31, 2012 Order be amended to add a certification pursuant to 28 U.S.C. § 1292(b). (Doc. 1233.) This request was denied on November 27, 2012. Provider Defendants then filed a Petition for writ of mandamus with the United States Court of Appeals for the Third Circuit. Now, Provider Defendants request these proceedings be stayed pending resolution of the

Petition by the Third Circuit.

Discussion

Courts look to four factors in determining whether to grant a stay of proceedings “pending the filing and disposition of a writ of mandamus with the court of appeals: (1) the movant's likelihood of success on the merits; (2) whether the movant will suffer irreparable harm if the request is denied; (3) whether other parties will be harmed by the stay; and (4) whether granting the stay will serve the public interest.” *State Farm Mut. Auto. Ins. Co. v. Lincow*, No. 05-5368, at *1 (E.D. Pa. Feb. 22, 2007) (quoting *Pressman-Gutman Co. v. First Union Nat'l Bank*, No. 02-8442, 2005 WL 174848, at *1 (E.D. Pa. Jan. 25, 2005)).

First, Provider Defendants are not likely to succeed on the merits. In their submissions, Provider Defendants have not demonstrated that the extraordinary remedy of the writ of mandamus is appropriate in these circumstances. In particular, Provider Defendants will have the opportunity for a post-judgment appeal of the issues they seek reviewed. Thus, Provider Defendants have not shown that they are without adequate means for relief, and, therefore, they have not demonstrated that they are likely to succeed on the merits of the Petition.

Second, Provider Defendants have not established that they will suffer irreparable harm if the request for a stay is denied. Rather, they simply repeat the same arguments set forth in numerous other filings without offering any other compelling reason to believe that they will prevail on appeal of this issue.

Third, staying the litigation will undoubtedly harm the non-moving parties. This action has been ongoing for almost four years, and staying the litigation would unnecessarily delay final resolution of this action. This factor weighs heavily in favor of denying the stay.

Fourth, the public interest favors denying the stay and allowing the litigation to proceed. A stay would only serve to delay the final resolution of this action, and Provider Defendants have failed to clearly articulate how a stay would serve the public interest.

Conclusion

Accordingly, because Provider Defendants have failed to show that any of the

relevant factors weigh in favor of staying this action pending the resolution of the Petition by the Third Circuit, the motion will be denied.

An appropriate order follows.

January 9, 2013
Date

/s/ A. Richard Caputo
A. Richard Caputo
United States District Judge